



PATENT APPLICATION

*AS/A
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Terry M. BLEIZEFFER et al.

Application No.: 09/058,170

Group Art Unit: 2173 **RECEIVED**

Confirmation No.: 7179

Examiner: C. Thai **AUG 01 2002**

Filed: April 10, 1998

Technology Center 2100

For: METHOD AND APPARATUS FOR SETTING PARAMETERS IN A SYSTEM

SUBMISSION OF APPELLANTS' BRIEF ON APPEAL

Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the final Office Action dated May 9, 2002.

Submitted herewith please find an original and two copies of Appellants' Brief on Appeal. Please charge the statutory fee of \$320.00 to Deposit Account No. 19-4880. Authorization is also given to charge or credit any difference or overpayment to Deposit Account No. 19-4880. A duplicate copy of this paper is attached.

Respectfully submitted,

Frank L. Bernstein
Reg. No. 31,484



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PATENT TRADEMARK OFFICE

Date: July 24, 2002

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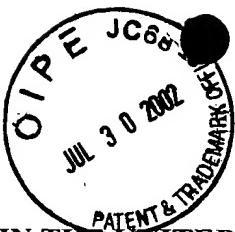
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Thea K. Wagner

Thea K. Wagner



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For: METHOD AND APPARATUS FOR SETTING PARAMETERS IN A SYSTEM

APPELLANTS' BRIEF ON APPEAL UNDER 37 C.F.R. § 1.192

Commissioner for Patents
Washington, D.C. 20231

Sir:

Appellant, within a two (2) month period from the May 31, 2002, filing date of the Notice of Appeal, herein files an Appeal Brief drafted in accordance with the provisions of 37 C.F.R. § 1.192, as follows:

I. REAL PARTY IN INTEREST

The real party in interest here is the owner of the application, IBM Corporation.

II. RELATED APPEALS AND INTERFERENCES

To the best of his knowledge, Appellants are not aware of any other appeals or interferences involving the present application.

III. STATUS OF CLAIMS

Claims 1, 11-13, 23-25, 35-37, and 47-48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Benton et al., USP 5,675,756, in view of Paterson et al., USP 6,069,629. Claims

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

2-6, 14-18, 26-30, and 38-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Benton in view of Paterson and further in view of Massaro et al., USP 5,535,321. Claims 7-10, 19-22, 31-34, and 43-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

IV. STATUS OF AMENDMENTS

The claims have not been amended pursuant to final rejection.

V. SUMMARY OF THE INVENTION

The invention disclosed in the application relates to a method and apparatus for directing and assisting a user through procedures of a program required to perform various tasks on a complex software system (specification, p. 1, lines 12-14). Independent claims 1, 13, 25, and 37 in the present application recite a program procedure which assists a user through a procedure on a computer, in particular, a software installation, migration, or updating procedure. The parameter input window is the only location where parameters need to be set or changed. Once a program has been installed on a system, the program may be maintained by updating to a later version, returning to an earlier version, or changing the way the current version operates. During maintenance activities, parameters affecting the operation of the program often must be set or changed.

The term "program procedure" clearly refers to software installation and updating, when term is viewed in the context of the specification, rather than in a vacuum. At page 8 of the specification, beginning at line 11, describing an embodiment of the invention, there is a

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

discussion of the large number of parameters that may be involved. At page 14, beginning at line 11, there is a discussion of how parameters may be made available to the user to either change or not, as the user wishes.

VI. ISSUES

1. Does Benton's teaching of "creating" or "modifying" teach or reasonably suggest leading a user through a program procedure to accomplish at least one of loading, installation, migration, fallback, and update tasks by directing a user to a display screen from which program parameters may be changed, as recited in claims 1, 11-13, 23-25, 35-37, and 47-48?
2. Does the prior art teach or reasonably suggest leading a user through a program depending whether the user was an expert or a non-expert in the steps of at least one of loading, installation, migration, fallback, and update tasks as recited in claims 2-6, 14-17, 26-29, and 38-40?

VII. GROUPING OF CLAIMS

Group I: Claims 1, 11-13, 23-25, 35-37, and 47-48 stand and fall together.

Group II: Claims 2-6, 14-17, 26-29, and 38-40 stand and fall together.

VIII. ARGUMENTS

Issue 1

Introduction

The present invention significantly differs from the combination of Benton and Paterson in at least the following respects. First, Benton relates to providing data used by a process control

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

system wherein the system includes a user interface for providing certain variables relating to the process being controlled, and further includes graphical representations of devices comprising the process being controlled. Such graphical representations include the variables or parameters associated with such devices. Benton fails to disclose any system or method allowing a user to modify, in any way, any parameters used by the program for its internal operation. Benton teaches that a user may modify data variables, or parameters, related solely to the description of the process being controlled.

Second, Paterson relates to a method of providing access to object parameters within a simulation model. A simulation model is a mathematical representation of real-world objects and how they interact with each other and their environments over a period of time. Results of a simulation may be presented in tabular form or a graphical representations on a display. Each object within a simulation has certain variables or parameters associated with that object, and these variables may be changed or set by a user. Paterson teaches that a user may set or modify parameters or variables associated with objects being simulated.

Program parameters are different from data upon which the program operates. Neither Benton nor Paterson teaches or reasonably suggests that a user may modify program parameters that affect the way in which a program operates. Both Benton and Paterson direct the user in changing data, not parameters.

Benton et al., USP 5,675,756

The Examiner has sought to equate Benton's creating or modifying with the claimed at least one of loading, installation, migration, fallback, remigration, and update tasks. Clearly, each of the

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

tasks recited in the claims relates to updating and maintaining a program. *See* final rejection (paper No. 14), pp. 2, 6, and 18. Whatever Benton's "creating" or "modifying" may be, it is in no sense related to program updating or maintenance. Benton relates only to methods for graphically entering data used in simulation or control programs. Benton is completely silent regarding any procedure to guide a user for updating or maintaining the respective program. Therefore, Appellants submit that Benton cannot possibly teach or suggest a procedure to guide a user in program updating or maintenance, as recited in the group I claims.

Benton is directed to an automated control/monitoring system having the capability of controlling and/or monitoring physical devices within the control structure, wherein the system also includes a system database for the physical devices. It is well known in the art that many physical devices in a control system have physical parameters associated with them, such as a mixing tank. *See, e.g.*, Benton, col. 6, lines 33 *et seq.* Clearly, as used in Benton, the term "parameter" refers to data associated with a physical device, and such data may represent levels in a tank, temperature or pressure of a fluid, an indication whether a switch is in an on or an off state, or the position of a valve. Further a "parameter" as used by Benton may be a setpoint level, an alarm level, or a scaling factor. *See* col. 8, lines 3-6.

None of these above described parameters in Benton relates in any way to the computer program parameters needed by the automated control/monitoring system for proper operation within a computer operating system such as Windows NT. Parameters needed by a computer operating system determine how well or whether a particular program such as an automated control/monitoring system may work using a particular computer operating system. Benton's

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

parameters are data used to perform specific tasks and, in the case of an automated control/monitoring system, the tasks may be displaying process conditions and/or effecting process changes through the connected devices. Benton's data parameters have nothing to do with the claimed program parameters.

Paterson et al., USP 6,069,629

Paterson fails to supply the deficiencies of Benton, and indeed the Examiner does not rely on Paterson to teach accomplishing at least one of loading, installation, migration, fallback, and update tasks.

Paterson is directed a method of providing data to a simulation program wherein data is entered on data input screens. As in Benton, Paterson refers to this data as "parameters." Simulation modeling is commonly used to model systems to perform "what-if" analyses for optimizing system performance and identifying problems within systems, and has found application in a wide range of fields from business to biological analysis. The construction of a simulation model typically involves identifying various objects within the system, which are then represented by variables, equations or both embodied in an "object". Each of the various objects of the modeled environment is shown to be either an entity object, an input object or a link object. Each of the objects typically includes at least one parameter which has a parameter name, an assigned value and parameter documentation which describes the parameter. "As is well known within the art, each object within the core 52 may comprise a collection of parameters (also commonly referred to as instances, variables or fields) and a collection of methods which utilize the parameters of the relevant object." *See*, Paterson, col. 4, lines 22-26.

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

Paterson's parameter describing an object is not the same as a parameter needed for the simulation program to work with an operating system. Paterson indicates that the modeling software may be run on a PC having Windows 98™, Windows NT™, on an Apple computer, or on workstations having Hyper-Text Markup Language (HTML) or the Java language. *See*, col. 4, lines 52 *et seq.* However, Paterson fails to disclose the steps necessary or any procedure for installing the simulation software on any of the mentioned computers or operating systems. Further, Paterson is silent on the steps necessary to upgrade, migrate, remigrate, fallback, or otherwise maintain the software. Consequently, Appellants submit that the Benton/Paterson combination fails to teach or reasonably suggest leading a user through a program procedure to accomplish at least one of loading, installation, migration, fallback, remigration, and update tasks. Again, the claimed program procedure is in no way related to the data manipulation of Benton and Paterson.

The Examiner is under an initial burden to support a *prima facie* case of obviousness, and a *prima facie* case of obviousness must include the following elements: the cited art or knowledge common to the art must suggest or motivate the combination of references; there must be a reasonable expectation of success; and finally the combination of references must teach or suggest all the elements of the claimed invention. Here the Examiner has failed to present a *prima facie* case for obviousness because all the elements of the invention of the group I claims are not taught or suggested in the references. Benton and Paterson teach how data used by a control or simulation program may be changed by a user, but neither reference, nor its combination, teaches or suggests a method for a user changing program parameters that direct at least one of loading, installation, migration, fallback, remigration, and update tasks. These tasks are related to installing and updating

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

a program within the context of a particular operating system, and the parameters described in the invention determine how well or whether a program may operate. Clearly, Benton and Paterson do not address these parameters, and therefore do not teach or suggest all the elements of the present invention. The Examiner has not presented a *prima facie* case of obviousness, and the claims of Group I are patentable for at least this reason.

Issue 2

The present invention differs significantly from the combination of Benton, Paterson, and Massaro. Both Benton and Paterson describe computer programs that model and or control process systems or environmental systems. When Massaro is added to Benton-Paterson, the combination still fails to describe the present invention.

Massaro is directed to a method and apparatus for providing a varying level of interaction with a user depending upon a profile containing an indication of a user's skill. The system using this method will then present a feature of a program in a manner appropriate for a particular user's skill level. The system maintains a profile of each user's skill level wherein the profile has a skill level associated with a particular aspect of the system. For example, a user may have a different skill level for each of a variety of programs in a system. *See* Massaro Fig. 2, and col. 3, lines 19-29. Further, a user's profile may be established and modified by one of numerous methods. *See* col. 4, lines 55 *et seq.* Massaro does not determine how or in what order features are presented to a user, but only the level of complexity presented to a user. *See*, col. 2, lines 5-6.

The present invention, as recited in the Group II claims, requires a user to select a non-expert or an expert way of interacting with a program procedure to load, install, migrate, fallback, or

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

remigrate a program. Each of these tasks relates to installing or updating a computer program on a system. Once a user selects a way of interacting with a program procedure, the procedure directs the user to specific parameters and steps that may changed by a user while effecting any of the installing or updating tasks. For example, if the user selects the non-expert path, the procedure then directs the user to a predetermined series of tasks windows. Each task window presents a parameter that may be modified by the user. As a task presented in one task window is completed, the user is directed to a next task window, and this procedure continues in the predetermined manner until all the tasks for a specific installation or updating procedure are completed. On the other hand, if the user selects the expert path, the user may select a parameter to change independent of any predetermined sequence, be directed to a page wherein the user may change the parameter, and upon completion, be directed back to the parameter selection page. The expert user may then change other parameters in any order and do so until the expert determines that the installation or updating procedure is complete. *See, App., p. 17, lines 25 et seq.*

For the reasons presented above in the discussion related to Issue 1, the Applicants contend the Examiner has failed to present a *prima facie* case for obviousness. Further, adding Massaro does not supply the teaching or suggestion of all the elements of the present invention. Massaro does not discuss installing or modifying a program. Still further, Massaro does not teach or suggest a method wherein a non-expert user may be directed to a predefined sequence of task screens that enable the non-expert user to change or modify a program parameter. Because Massaro fails to teach or suggest this limitation, Applicants contend that the Examiner has not presented a *prima facie* case, and that the claims in Group II are patentable for at least this reason as well.

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

Regarding the expert path, the Examiner has objected to claims 7-10, 19-22, 31-34, and 43-46 as being dependent upon rejected base claims, but would allow them if rewritten to be in independent form.. These claims relate to the expert path, and the Examiner has stated the cited prior art fails to anticipate or make obvious the claimed invention. *See*, Office Action dated 05/09/2002, p. 13.

IX. CONCLUSION

Pursuant to the foregoing discussion, Appellants submit that all of the rejected claims in the present application are patentable. Accordingly, Appellants request that the Examiner's rejections be reversed, and the application passed to allowance at the earliest opportunity.

The present Brief on Appeal is being filed in triplicate. Appellants hereby petition for any extension of time which may be required to maintain the pendency of this case, and any required fee for such extension is to be charged to Deposit Account No. 19-4880.

Respectfully submitted,



Frank L. Bernstein
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SUGHRUE MION, PLLC
Tel: (650) 325-5800



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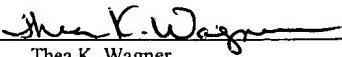
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Thea K. Wagner

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

APPENDIX

CLAIMS 1-6, 11-18, 23-30, 35-42, and 47-48 ON APPEAL:

1. A method for leading a user through a program procedure on a computer to accomplish at least one of loading, installation, migration, fallback, remigration, and update tasks of a program, the method comprising the steps of:
 - a) displaying a window to the user providing information regarding parameters of the program;
 - b) transferring the user from the window to a parameter input window associated with one of the parameters selected by the user to be set or changed, wherein the user provides information in the parameter input window to set or change the value of the parameter, the parameter input window being the only location where the parameters need to be set or changed.
2. The method according to claim 1, wherein, prior to step a), the user is provided with at least two interaction path options, a first one of the interaction path options being a non-expert path and a second one of the interaction path options being an expert path.
3. The method according to claim 1, wherein

prior to step a), a choice window is displayed to the user, wherein the user is provided with at least two interaction path options, a first one of the interaction path options being a non-expert path and a second one of the interaction path options being an expert path; and

further wherein, when the user has selected the non-expert path, the window is an information window providing information regarding a parameter of the program.
4. The method according to claim 3, further comprising the step of:
 - c) displaying another information window providing information regarding another parameter of the program.
5. The method according to claim 3, further comprising the step of:

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

c) repeating steps a) and b) for additional information windows in the non-expert path, each of the additional information windows providing information regarding different parameters of the program.

6. The method according to claim 4, wherein the step of displaying another information window comprises returning the user from the parameter input window to the information window associated with the parameter selected to be set or changed by the user and then forwarding the user to the another information window.

11. The method according to claim 1, further comprising the step of preventing the user from selecting to set or change a value of the parameter for at least one of the parameters.

12. The method according to claim 1, wherein a parameter must be modified.

13. A computer system for leading a user through a program procedure to accomplish at least one of loading, installation, migration, fallback, remigration, and update tasks of a computer program, the system comprising:

a) a workstation, including a display; and
b) a program for displaying a window to the user on the display providing information regarding parameters of the computer program; and whereupon in response to the user selecting to set or change a value of one of the parameters, the user is transferred from the window to a parameter input window associated with the selected parameter, wherein the user provides information in the parameter input window to set or change the value of the parameter, the parameter input window being the only location where the parameters need to be set or changed.

14. The computer system according to claim 13, wherein prior to displaying the window to the user, in the program, the user is provided with at least two interaction path options, a first one of the interaction path options being a non-expert path and a second one of the interaction path options being an expert path.

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

15. The computer system according to claim 13, wherein prior to displaying the window to the user, a choice window is displayed to the user on the display, wherein in the program, the user is provided with at least two interaction path options, a first one of the interaction path options being a non-expert path and a second one of the interaction path options being an expert path; and

further wherein, when the user has selected the non-expert path, the window is an information window providing information regarding a parameter of the program.

16. The computer system according to claim 15, wherein another information window is displayed on the display, providing information regarding another parameter of the program.

17. The computer system according to claim 15, wherein in the program, the user is provided with additional information windows in the non-expert path, each of the additional information windows providing information regarding additional parameters of the program.

18. The computer system according to claim 16, wherein in the program, the provision of the additional information windows is accomplished by returning the user from the parameter input window to the information window associated with the parameter selected to be set or changed by the user and then forwarding the user to one of the additional information windows.

23. The computer system according to claim 13, wherein the program prevents the user from selecting to set or change a value of the parameter for at least one of the parameters.

24. The computer system according to claim 13, wherein a parameter must be modified.

25. A computer program to be performed on or with the aid of a computer system for leading a user through a program procedure on a computer to accomplish at least one of loading, installation, migration, fallback, remigration, and update tasks of a further program, the computer program comprising the steps of:

- a) displaying a window to the user providing information regarding parameters of the further program;

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

b) transferring the user from the window to a parameter input window associated with one of the parameters selected by the user to be set or changed, wherein the user provides information in the parameter input window to set or change the value of the parameter, the parameter input window being the only location where the parameters need to be set or changed.

26. The computer program according to claim 25, wherein, prior to step a), the user is provided with at least two interaction path options, a first one of the interaction path options being a non-expert path and a second one of the interaction path options being an expert path.

27. The computer program according to claim 25, wherein
prior to step a), a choice window is displayed to the user, wherein the user is provided with at least two interaction path options, a first one of the interaction path options being a non-expert path and a second one of the interaction path options being an expert path; and
further wherein, when the user has selected the non-expert path, the window is an information window providing information regarding a parameter of the program.

28. The computer program according to claim 27, further comprising the step of:

c) displaying another information window providing information regarding another parameter of the program.

29. The computer program according to claim 27, further comprising the step of:

c) repeating steps a) and b) for additional information windows in the non-expert path, each of the additional information windows providing information regarding different parameters of the program.

30. The computer program according to claim 28, wherein the step of displaying another information window comprises returning the user from the parameter input window to the information window associated with the parameter selected to be set or changed by the user and then forwarding the user to the another information window.

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

35. The computer program according to claim 25, further comprising the step of preventing the user from selecting to set or change a value of the parameter for at least one of the parameters.

36. The computer program according to claim 25, wherein a parameter must be modified.

37. A computer-readable medium containing a program for performing the method of leading a user through a program procedure on a computer to accomplish at least one of loading, installation, migration, fallback, remigration, and update tasks of a computer program, comprising the steps of:

- a) displaying a window to the user providing information regarding parameters of the computer program;
- b) transferring the user from the window to a parameter input window associated with one of the parameters selected by the user to be set or changed, wherein the user provides information in the parameter input window to set or change the value of the parameter, the parameter input window being the only location where the parameters need to be set or changed.

38. The computer-readable medium according to claim 37, wherein, prior step a), the user is provided with at least two interaction path options, a first one of the interaction path options being a non-expert path and a second one of the interaction path options being an expert path.

39. The computer-readable medium according to claim 37, wherein prior to step a), a choice window is displayed to the user, wherein the user is provided with at least two interaction path options, a first one of the interaction path options being a non-expert path and a second one of the interaction path options being an expert path; and

further wherein, when the user has selected the non-expert path, the window is an information window providing information regarding a parameter of the program.

40. The computer-readable medium according to claim 39, further comprising the step of:

APPELLANTS' BRIEF ON APPEAL
U.S. Application No. 09/058,170

- c) displaying another information window providing information regarding another parameter of the program.
41. The computer-readable medium according to claim 39, further comprising the step of:
- c) repeating steps a) and b) for additional information windows in the non-expert path, each of the additional information windows providing information regarding different parameters of the program.
42. The computer-readable medium according to claim 40, wherein the step of displaying another information window comprises returning the user from the parameter input window to the information window associated with the parameter selected to be set or changed by the user and then forwarding the user to the another information window.
47. The computer-readable medium according to claim 37, further comprising the step of preventing the user from selecting to set or change a value of the parameter for at least one of the parameters.
48. The computer-readable medium according to claim 37, wherein a parameter must be modified.